

Notice of Allowability

Application No.

09/849,611

Examiner

Susan T. Tran

Applicant(s)

SWENSON ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed 01/06/05.
2. ☒ The allowed claim(s) is/are 1,3-6,8,11-21,23 and 25-43.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

7. ☒ The drawings filed 05/04/01 have been approved by the examiner.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 01/06/05.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with John M. Guynn on 01/05/05.

An examiner's amendment to the record appears below. Should the changes be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

The application has been amended as follows:

In the specification:

Page 24, paragraph 048, lines 7-8, after the phrase "[t]his administration provides a delivered effective amount of bioactive substance according to a sustained and controlled pattern", the phrase "for a time period ranges from about one hour to about three hours" has been inserted.

In the claims:

Claim 1, lines 2-3, the phrase "or other" has been deleted.

Claim 1, line 4, before the phrase "bioactive substance", the phrase "glucosamine-based" has been inserted.

Claim 1, line 12, the phrase "or other" has been deleted.

Claim 1, line 20, the phrase "or other" has been deleted.

Claim 1, line 21, the phrase "glucosamine-based" has been inserted before the first and second appearance of the phrase "bioactive substance" in line 21.

Claim 2 has been cancelled.

Claims 3, 4, 6, 25, 27 and 28, last line, before the word "comprises", the word "further" has been inserted.

Claims 16-19, 21 and 25-31, the phrase "glucosamine-based" has been inserted before the phrase "bioactive substance" anywhere the phrase "bioactive substance" appears.

Claim 24 is cancelled.

Claim 33, line 16, after the phrase "time interval", the phrase "in a range of about one hour to about three hours," has been inserted.

The following is an examiner's statement of reasons for allowance:

The reason for allowance of the claims is the inclusion of glucosamine-base active agent, as well as the specific ratio between maltodextrin and powdered cellulose. Applicant's specification shows that the restricted ratio results in the claimed time interval of active substance being release, which is within the range of about 1 hour to about 3 hours. The cited reference teaches the release rate of 4 hours to 20-24 hours.

Furthermore, the reference does not teach the claimed ratio in a dosage form to protect the stomach from irritating when comes into contact with glucosamine-base bioactive substance.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Claim 1 is directed to an allowable product. Pursuant to the procedures set forth in the Official Gazette notice dated March 26, 1996 (1184 O.G. 86), claims 16-20 and 39-43 are directed to the process of making or using the patentable product, previously withdrawn from consideration as a result of a restriction requirement, are now subject to being rejoined. Process claims 16-20 and 39-40 are hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Claims 1, 3-6, 8, 11-21, 23 and 25-43 are allowed.

Correspondence

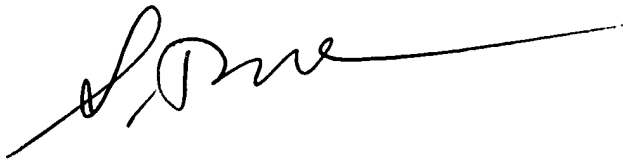
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan T. Tran whose telephone number is (571) 272-0606. The examiner can normally be reached on Monday through Thursday 6:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on (571) 272-0602. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'S. Tran', with a long horizontal line extending to the right.

S. Tran
Examiner
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